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April 20, 2012

Domenic J. Veneziano
Director, Department of Import Operations
Food & Drug Administration
12420 Parklawn Drive
Rockville, MD 20857

Re: Cook v. FDA, CA No. 1:11-cv-00289

Dear Mr. Veneziano:

Thank you for your recent letter enclosing a copy of the order entered in the above case. The matter is now under review.

Please provide us with contact information for the FDA attorneys and Justice Department officials involved in the decision to appeal the court's order. We believe the FDA and Justice Department should appeal the court's order, which was clearly wrong and contrary to the United States Supreme Court decision in *Heckler v. Chaney*, 470 U.S. 821, 835 (1985). *Heckler v. Chaney* stated that Congress, under the provisions of the federal FDA Act, gave complete authority to the Secretary of Health and Human Services "to decide how and when" the Act is to be enforced.

Other than the court's erroneous order, we are unaware of any evidence or reasons why the Department of Correctional Services should be required to return any thiopental in its possession.

Sincerely,

Jon Bruning
Attorney General

James D. Smith
Assistant Attorney General

cc: Robert Houston